

REMARKS/ARGUMENTS

Claims 1-33 are pending in the application. On the Office Action Summary, the Examiner states claims 1-33 are rejected. However, Applicant notes the Examiner states, under the heading "Allowable Subject Matter," that claims 3-5, 12-17, 19, 20-25, 26, and 27-33 would be in condition for allowance if rewritten. Applicant has amended claims 1, 4, 6, 10, 13, 14, and 17. Applicant has canceled claims 2, 3, and 12. Applicant respectfully requests reconsideration of claims 1-33.

Applicant notes the Examiner states, on the Office Action Summary, "This action is non-final." However, Applicant further notes, in paragraph 18 of the Office action, the Examiner states, "THIS ACTION IS MADE FINAL." Applicant notes MPEP § 706.07(a) states, in part, "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)." Applicant submits the Examiner introduced a new ground of rejection, namely rejection of claims 3-5, 12-17, and 19-33 under 35 U.S.C. § 112, second paragraph. Applicant further submits Applicant did not amend the claims and did not submit an information disclosure statement during the period set forth in 37 CFR § 1.97(c) with the fee set forth in 37 CFR § 1.17(p). Thus, Applicant submits finality of the outstanding Office action would be improper. Therefore, Applicant respectfully requests the Examiner clarify that the outstanding Office action is non-final or, in the event the Examiner considers the outstanding Office action to be final, explain the Examiner's basis for finality in light of MPEP § 706.07(a) and withdraw finality of the outstanding Office action.

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a). The Examiner states "the differentiated service profile maps...differentiated service codepoint value to ...class[es] of service and a [plurality of] drop precedence[s]" (claim 9) must be shown or the feature(s) canceled from the claim(s). Applicant submits the drawings, as originally filed, illustrate examples of such features. As one example, Applicant refers to Fig. 6. Applicant notes page 21, line 23, to page 22, line 13, state that "Fig. 6 illustrates an example of a mapping of differentiated service codepoint values to classes of service and drop precedences using a differentiated service profile according to an embodiment of the present invention...." Applicant further notes, as examples, differentiated service codepoint values 608, 609, 610, 611; classes of service 612, 613, 614, 615; and drop precedences 616,

617, 618, and 619; as well as mappings 604, 605, 606, and 607. Applicant further notes, as examples, differentiated service profiles 107, 108, 109, 203, 204, 303, 304, 365, 402, 426, 427, and 428. Therefore, Applicant submits the drawings comply with 37 C.F.R. § 1.83(a). Thus, Applicant submits the objections to the drawings have been obviated.

The Examiner has rejected claims 3-5, 12-17, and 19-33 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully disagrees.

Regarding claim 3, line 4, the Examiner states, "it is unclear whether 'the plurality of transport interfaces' is the same as the 'plurality of transport interfaces' in claim 1, line 6." Applicant submits the "plurality of transport interfaces" in claim 1, line 6, provides antecedent basis for "the plurality of transport interfaces" in claim 3, line 4. Thus, Applicant submits the rejection of claim 3 has been obviated. Therefore, Applicant submits claim 3 is in condition for allowance.

Regarding claim 12, line 2, the Examiner states, "it is unclear whether 'the transport interfaces' is the same as the 'transport interfaces' in claim 10, line 6." Applicant submits the "transport interfaces" in claim 10, line 6, provides antecedent basis for "the transport interfaces" in claim 12, line 2. Thus, Applicant submits the rejection of claim 12 has been obviated. Therefore, Applicant submits claim 12 is in condition for allowance.

Regarding claim 17, the Examiner states, "it is unclear what is meant by 'preserving' in line 2 and 'inclusive' in line 3." Applicant has amended claim 17 to clarify antecedent basis. Applicant submits the amendments are merely cosmetic and do not introduce new matter. Thus, Applicant submits the rejection of claim 17 has been obviated. Therefore, Applicant submits claim 17 is in condition for allowance.

Regarding claim 19, the Examiner alleges there is insufficient antecedent basis of for "the classes of service of the subsets of the data packets." Applicant notes the preamble of claim 19 provides antecedent basis for "the classes of service" and antecedent basis for "the subsets of the data packets" is found a few words before "the subsets of the data packets." Thus, Applicant submits the rejection of claim 19 has been obviated. Therefore, Applicant submits claim 19 is in condition for allowance.

Regarding claim 26, the Examiner alleges there is insufficient antecedent basis of for "the classes of service of the subsets of the data packets." Applicant notes the preamble of claim 26 provides antecedent basis for "the classes of service" and antecedent basis for "the subsets of the data packets" is found a few words before "the subsets of the data packets." Thus, Applicant submits the rejection of claim 26 has been obviated. Therefore, Applicant submits claim 26 is in condition for allowance.

The Examiner has rejected claims 1 and 2 under 35 U.S.C. § 102(b) as allegedly being clearly anticipated by admitted prior art RFC 2475. Applicant respectfully disagrees.

Regarding claim 1, Applicant has amended claim 1. Therefore, Applicant submits claim 1 is in condition for allowance.

Regarding claim 2, Applicant has canceled claim 2.

The Examiner has rejected claims 6-11 and 18 under 35 U.S.C. § 103(a) as allegedly being unpatentable over RFC in view of Chow et al. (US Patent No.7,072,300). Applicant respectfully disagrees.

Regarding claim 6, Applicant has amended claim 1, from which claim 6 depends. Therefore, Applicant submits claim 6 is also in condition for allowance.

Regarding claim 7, Applicant has amended claim 1, from which claim 7 indirectly depends. Therefore, Applicant submits claim 7 is also in condition for allowance.

Regarding claim 8, Applicant has amended claim 1, from which claim 8 indirectly depends. Therefore, Applicant submits claim 8 is also in condition for allowance.

Regarding claim 9, Applicant has amended claim 1, from which claim 9 indirectly depends. Therefore, Applicant submits claim 9 is also in condition for allowance.

Regarding claim 10, Applicant has amended claim 10. Therefore, Applicant submits claim 10 is in condition for allowance.

Regarding claim 11, Applicant has amended claim 10, from which claim 11 depends. Therefore, Applicant submits claim 11 is also in condition for allowance.

Regarding claim 18, Applicant has amended claim 10 from which claim 18 depends. Therefore, Applicant submits claim 18 is in condition for allowance.

The Examiner has allowed claims 19 and 26 if rewritten or amended to overcome the rejections under 35 U.S.C. § 112, second paragraph, set forth in this Office action. Applicant has presented arguments for the allowability of claims 19 and 26 above. Thus, Applicant submits claims 19 and 26 are in condition for allowance.

The Examiner would allow claims 3-5, 12-17, 20-25, and 27-33 if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. Applicant has amended claims 1 and 10. Thus, Applicant submits claims 3-5 and 12-17 are also in condition for allowance. As noted above, Applicant has presented arguments for the allowability of claims 19 and 26, from which claims 20-25 and 27-33, respectively, depend. Thus, Applicant submits claims 20-25 and 27-33 are also in condition for allowance.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

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Date



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